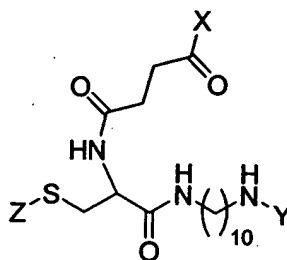


combination of  $L^1$ - $L^3$  and W for examination on the merits. The Examiner states that an examination on the merits will be conducted for the specific elected invention and all other species patentably indistinct from the elected invention.

### Provisional Election of Species

Applicants provisionally elect the species of formula I, wherein W is glycynyl,  $L^1$  is dicarbonylethyl,  $L^2$  is 1,10-diaminodecanyl, and  $L^3$  is methanethiolyl. The elected species is represented by formula IA:



IA

Applicants note that a single combination of  $L^1$ - $L^3$  and W falls within the Markush groups of claims 2-5, 11, and 13. The Examiner is respectfully reminded that where a claim contains a Markush group:

[T]he examiner may require a provisional election of a single species prior to examination on the merits . . . Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability . . . should no prior art be found that anticipates or renders obvious the elected species, the search of the Markush-type claim will be extended.

MPEP §803.02. Applicants understand that in making this provisional election of species, the Examiner will, as a preliminary matter, search the single combination of formula I, wherein W is glycynyl,  $L^1$  is dicarbonylethyl,  $L^2$  is 1,10-diaminodecane, and  $L^3$  is methanethiolyl. If no prior art is found that anticipates or renders obvious the elected species, Applicants expect the search of the Markush group to be extended "to the extent necessary to determine the patentability of the Markush-type claim." MPEP §803.02. Therefore, Applicants will object if the search is not extended to all the subgenres of the claimed Markush groups.

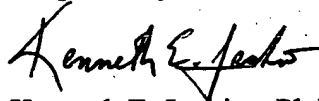
The Examiner has requested that Applicants suggest a subgenus. Applicants, therefore, respectfully suggest the search be initially extended to the subgenus of formula I, wherein W is an amino acid and  $L^1$ ,  $L^2$ , and  $L^3$  are independently selected from the group consisting of a bond and a substituted or unsubstituted ( $C_2$ - $C_{24}$ )heteroalkylene group. The Applicants further suggest that, if the suggested subgenus is determined to be allowable, the search be further extended to the subgenus of formula I, wherein W is a ( $C_2$ - $C_{24}$ )heteroalkylene group. However, Applicants expect the search to be extended to all the subgenuses of the claimed Markush groups if no prior art is found that anticipates or renders obvious the suggested subgenuses described above.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



Kenneth E. Jenkins, Ph.D.  
Reg. No. 51,846

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300  
KEJ:kej  
SF 1439227 v1